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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/019,346 | 12/24/2001 | Jorg Meyer | 70376 | 6411 |

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McGlew and Tuttle
Scarborough Station
Scarborough, NY 10510-0827

EXAMINER

WILLIAMS, THOMAS J

| ART UNIT | PAPER NUMBER |
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3683

DATE MAILED: 04/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,346

Applicant(s)

MEYER, JORG

Examiner

Thomas J. Williams

Art Unit

3683

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- ☐ Interview Summary (PTO-413) Paper No(s). ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Acknowledgment is made in the receipt of the information disclosure statement and the preliminary amendment filed December 24, 2001.

Specification

2. The disclosure is objected to because of the following informalities: all references to claims in the specification should be removed, see page 1 line 1 and page 2 line 18.

Appropriate correction is required.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: page 6 line 17, reference character "6.2" does not appear in the figures. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 1 and 11 each recite the limitation "said axis" in line 5 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-10 and 12-18 are rejected due to their dependence upon claims 1 and 11.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-7 and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,367,204 to Chadwick II.

Re-claim 1, Chadwick II discloses a shifting device, comprising: a housing; a selector lever 11 mounted in the housing around a pivot axis; a first locking member 15 comprising an angle lever 17 and a first locking member pivot axis 3; a second locking member 16 comprising an angle lever 19 and a pivot axis 4, the first locking member and the second locking member block the movement of the lever in different shift positions, see column 5 lines 44-53; an adjusting member, the bolts attached to the angle levers are seen as adjusting members; a locking element 22 is associated with the lever 11 and is engaged by one of the first and second locking member in the shift positions of the lever which are locked, as a function of preset parameters. Gear selection is a preset parameter.

Re-claims 2 and 12, the angle levers are two arms separated by an angle between 0 and 180 degrees. Rotating connections normally use bearings to reduce friction between rotating sections.

Re-claim 3, the adjusting members are coupled to the locking members.

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Re-claims 4 and 13, the first and second locking members each have a side facing the locking element with an elevated engaging contour (each member is rounded), and are engaged into a complimentary recess 24.

Re-claims 5 and 14, the locking element 22 has sliding surfaces 23.

Re-claims 6 and 15, the lever is strap shaped, see figure 2, the locking element is fastened to an outer contour of the lever.

Re-claim 7, the first and second locking members are identical components.

Re-claim 10, the shifting device is a module and is used in a modular system, such as a motorized vehicle.

Re-claim 11, Chadwick II discloses a shifting device, comprising: a support; a selector lever 11 mounted in the support around a pivot axis; a first locking member 15 comprising an angle lever 17 and a first locking member pivot axis 3; a second locking member 16 comprising an angle lever 19 and a pivot axis 4, the first locking member and the second locking member block the movement of the lever in different shift positions, see column 5 lines 44-53; an adjusting member connected to the first and second locking members for adjusting the position of the locking members, the bolts are seen as adjusting members that adjust the position of the locking members 15 and 16; a locking element 22 is associated with the lever 11 and is engaged by one of the first and second locking member in the shift positions of the lever which are locked, as a function of preset parameters.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,662,001 to Smale in view of JP 08-093897 to Inagaki et al.

Re-claims 1 and 7, Smale teaches a shifting device, comprising: a housing (not illustrated); a selector lever 20, the lever pivots at axis 30; a first locking member 48 comprising an angle lever, the angle lever pivots at axis 50; an adjusting member 66; a locking element 34 is associated with the lever 20 and engages the first locking member, as a function of preset parameters, such a closure of key 72. However, Smale fails to teach a second locking member engaging the locking element.

Inagaki et al. teaches the concept of a shift device having two locking members that lock a lever of the shift device between two positions. It would have been obvious to one of ordinary skill in the art to have provided the shift device of Smale with a second locking member as conceptually taught by Inagaki et al., thus providing a means of locking the lever of a shift device between a neutral and reverse position and a park and reverse position to enhance vehicle operational safety. The second locking member of Smale would have retained the same features of the first locking member.

Re-claims 2 and 12, the angle levers have two arms forming an angle of between 0 and 180 degrees.

Re-claim 3, the adjusting member is coupled with the locking members.

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Re-claims 4 and 13, the first and second locking members each have a side 52 facing the locking element 34, the side has an elevated engaging contour which engages a recess 38 of the locking element 34.

Re-claims 5 and 14, the locking element 34 has sliding surfaces, seen as outer curved surfaces.

Re-claim 11, Smale teaches a shifting device, comprising: a support; a selector lever 20, the lever pivots at axis 30; a first locking member 48 comprising an angle lever, the angle lever pivots at axis 50; an adjusting member 66 connected to the first locking member; a locking element 34 is associated with the lever 20 and engages the first locking member, as a function of preset parameters, such a closure of key 72. However, Smale fails to teach a second locking member engaging the locking element.

Inagaki et al. teaches the concept of a shift device having two locking members that lock a lever of the shift device between two positions. It would have been obvious to one of ordinary skill in the art to have provided the shift device of Smale with a second locking member as conceptually taught by Inagaki et al., thus providing a means of locking the lever of a shift device between a neutral and reverse position and a park and reverse position to enhance vehicle operational safety. The second locking member of Smale would have retained the same features of the first locking member, including an adjusting member. The language does not preclude a separated adjusting member for each locking member.

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Allowable Subject Matter

11. Claims 8, 9, 17 and 18 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dieden et al. teaches a shift locking device.

13. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached at (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

April 1, 2003

THOMAS WILLIAMS
PATENT EXAMINER

Thomas J. Williams

4-01-03